

# HOUSE BILL REPORT

## SB 5635

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**As Passed House:**

March 30, 2007

**Title:** An act relating to requiring polygraph tests.

**Brief Description:** Revising provisions relating to limitations on polygraph tests.

**Sponsors:** By Senators Brandland, Kline and Delvin; by request of Criminal Justice Training Commission.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 3/15/07, 3/23/07 [DP].

**Floor Activity:**

Passed House: 3/30/07, 94-0.

**Brief Summary of Bill**

- Allows law enforcement agencies and county juvenile court services agencies to require persons returning after 24-month breaks in service as fully-commissioned law enforcement officers to take lie detector and similar tests.

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**HOUSE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Green, Moeller and Williams.

**Staff:** Jill Reinmuth (786-7134).

**Background:**

Most law enforcement officers must complete basic law enforcement training and obtain and retain certification as a peace officer through the Criminal Justice Training Commission. Legislation enacted in 2005 requires certain peace officers to pass psychological and polygraph tests. For example, as a condition of continuing employment, applicants who have been offered conditional offers of employment and persons whose certification has lapsed as a result of 24-month breaks in service are required to successfully pass polygraph tests.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Employers, however, are prohibited from requiring employees or prospective employees to take lie detector or similar tests as a condition of employment. There are exceptions to this prohibition for persons making initial application for employment with law enforcement agencies and county juvenile court services agencies, persons applying for or continuing employment with drug manufacturers, distributors, and dispensers, and persons in sensitive positions directly involving national security.

Employers who unlawfully require lie detector or similar tests may be subject to civil and criminal liability. In a civil action, a prevailing employee or prospective employee may be awarded actual damages, a civil penalty of \$500, and reasonable attorneys' fees and costs. (A prevailing employer may be awarded reasonable attorneys' fees and expenses if the civil action is frivolous and advanced without reasonable cause.) In a criminal action, an employer may be found guilty of a misdemeanor.

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**Summary of Bill:**

The exception to the prohibition on lie detector and similar tests is modified. In addition to persons making initial application for employment, law enforcement agencies and county juvenile court services agencies may require persons returning after 24-month breaks in service as fully-commissioned law enforcement officers to take lie detector and similar tests as a condition of employment.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill deals with the ability of sheriffs and law enforcement agencies to administer polygraph tests. Polygraph tests are an important hiring tool.

Other laws require agencies to give polygraph tests when promoting employees, but this law prohibits them from doing so. Agencies are caught in a "catch-22."

This bill takes care of this glitch.

(Opposed) None.

**Persons Testifying:** Senator Brandland, prime sponsor; Garry Lucas, Clark County Sheriff; and Michael Parsons, Criminal Justice Training Commission.

**Persons Signed In To Testify But Not Testifying:** None.